

12

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 29TH DAY OF MARCH, 2001

Original Application No.482 of 1993

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.BISWAS, MEMBER(A)

Arunesh Agnihotri, son of Sri Babu ram  
Agnihotri, R/o House No.124/2 E,  
Block Govind Nagar, Kanpur 6

... Applicant

(By Adv: Shri K.K.Tripathi)

Versus

1. The Union of India through Secretary  
Ministry of Postal and Telecommunication  
of India.
2. The Chief Post Master General  
Circle Lucknow.
3. The Director of Postal Services  
Kanpur Region, Kanpur.
4. The Sub Division Inspector  
Kanpur City, Kanpur.

... Respondents

(By Ms.Sadhna Srivastava)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has  
prayed for quashing of the order dated  
21.10.1991(Annexure 10) and also for a direction to the  
respondent no.4 to take the applicant in service. The  
basis of the aforesaid claim is that applicant was  
engaged as Substitute E.D.Packer in the post office  
Nirala Nagar, Kanpur on 18.8.1987 and in this capacity he  
worked upto 25.5.1991. Learned counsel for the applicant  
has submitted that as applicant had worked for more than  
3 years he was entitled to be regularised on the post.

Ms.Sadhna Srivastava learned counsel for the respondents, on the other hand, submitted that applicant was engaged as Substitute in place of the regular employee and he is not entitled for the relief claimed. Learned counsel has placed before us the judgement of Hon'ble Supreme Court in case of 'Sub Divisional Inspector of Post, Vaikam and Others Vs. Theyyam Joseph and others, 1996 SCC(L&S) 1012. Paragraph 12 of the judgement which deals with the substitute appointment is being reproduced below:-

"It is seen that the respondent was appointed as a Substitute to the regular candidate who did not ultimately turn up for duty after training. The respondent having been appointed and having worked dehors the rule, therefore, remains to be an ad hoc Extra-Departmental Packer. He will be entitled under the Conduct Rule 6 to the payment of the amount to be calculated for one month allowance plus DA. The same shall be paid. The Tribunal was wholly wrong in directing the appellant to terminate the services in accordance with the provisions of the Act. The respondent is at liberty to apply for, alongwith other candidates, when any vacancy arises and is filled up. The appellant is directed to consider his case which will also be done according to the rules. he may be considered if he is found eligible and may be appointed to the post per rules."

:: 3 ::

The present case is squarely covered by the aforesaid judgement of Hon'ble Supreme Court. It is well known that Substitute is appointed on the basis of the nomination given by the permanent incumbent of the post. The appointment is dehors rules. It is not an appointment on merits. In the circumstances, the applicant is not entitled for relief except for the direction that in case vacancy arises and applicant applies for appointment, his case shall be considered in accordance with law and if rules permit weightage shall be given to his past experience.

The OA is accordingly disposed of. No order as to costs.

*S. Balaji*

MEMBER(A)

*R. S. Balaji*

VICE CHAIRMAN

Dated: 29.3.2001